

Via First Class Mail
DBEC, LLC
c/o David Bates
3700 East Elm Road
Oak Creek, WI 53154

Re: GRG Ventures, LLC v DBEC, LLC
Case No. 1:18-cv-00755-JTN-ESC



UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

GRG Ventures, LLC d/b/a Game Room

Guys, a Michigan limited liability company

Plaintiff

Case No. 18-755-cv

v.

Honorable Janet T. Neff

DBEC, LLC a Wisconsin limited liability company

Defendant

Response to Plaintiff's Complaints

Now comes the defendant, DBEC LLC, in response to Plaintiff's complaints and counts for trademark infringement and unfair competition. For the purpose of this response the following terms will be defined as follows:

Merchant: (1) a person who buys and sells commodities for profit; dealer, trader. (2) a storekeeper, retailer. (3) wholesaler

Distributor: an agent who supplies goods to stores and other businesses that sell to consumers

Manufacturer: a person or company that makes goods for sale.

Trademark: a symbol, word, or words legally registered or established by use as representing a company or product.

DBEC, LLC is a Wisconsin limited liability company, along with its subsidiary company Soda Bar Systems, that is in the business of marketing, listing, distributing, and selling of beverage equipment, supplies and parts, in addition to billiard supplies and parts. Defendant has a registered office at 3700 E. Elm Rd, Oak Creek, WI 53154. DBEC LLC was established in 2000 and has been doing business as such since that date, with Soda Bar Systems being established in 1998.

COUNT I-TRADEMARK INFRINGEMENT

(24) *On information and belief, Defendant has-without the consent of Plaintiff-used in commerce reproductions, counterfeits, copies, and/or colorable imitations of the Game Room Guys mark in connection with the sale, offering for sale, distribution, or advertising of good on Amazon.com. Such acts are likely to cause confusion, or to cause mistake, or to deceive.*

Defendant denies

(25) *On information and belief, Defendant's acts were committed with knowledge that their imitation was intended to be used to cause confusion, or to cause mistake, or to deceive.*

Defendant denies

(26) *On information and belief, Defendant has used the Game Room Guys mark with knowledge of, and the intent to call to mind and create a likelihood of confusion with regard to, and/or trade off of the Game Room Guys mark and goodwill.*

Defendant denies

(27) *On information and belief, Defendant has actual knowledge of Plaintiff's trademark registration.*

Defendant denies

(28) *Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Plaintiff's trademark, business reputation, and goodwill. Plaintiff has no adequate remedy at law as monetary damages are inadequate to compensate Plaintiff for the injuries caused by the defendant.*

Defendant denies

(29) *As a direct and proximate result of Defendant's conduct, Plaintiff has suffered damages to the Game Room Guys mark and other damages to its business in the amount to be proven at trial.*

Defendant denies

(30) *Defendant's infringement of the Game Room Guys mark is deliberate, willful, fraudulent, and constitutes a knowing use of the Game Room Guys mark, and an exceptional case within the meaning of 15 U.S.C. 1117(b).*

Defendant denies

(31) *Plaintiff is entitled to injunctive relief and to recover Defendant's profit, actual damages, enhanced profits and damages, costs, and reasonable attorney fees under 15 U.S.C 1114, 1116, and 1117.*

Defendant denies

COUNT II-UNFAIR COMPETITION AND OTHER VIOLATIONS UNDER 15 U.S.C 1125

(33) *On information and belief, Defendant has, on or in connection with their goods or services, used in commerce the Game Room Guys word(s), term(s), name(s), and/or symbol(s), as well as combination thereof, and have made false designations of origin, false or misleading descriptions of fact, or false or misleading representations of fact, which are likely to cause confusion, or to cause mistake, or to*

deceive as to the affiliation, connection, or association of Defendant with Plaintiff, or as to the origin, sponsorship, or approval of Defendant's goods, services, or commercial activities by Plaintiff.

Defendant denies

(34) *On information and belief, Defendant has, on or in connection with their goods or services, used in commerce Plaintiff's word(s), term(s), name(s), and/or symbol(s), as well as combinations thereof, and have made false designations of origin, false or misleading descriptions of fact, or false or misleading representations of fact, which in commercial advertising or promotion, misrepresented the nature, characteristics, qualities, and/or geographic origin of Defendant's goods or services.*

Defendant denies

(35) *On information and belief, Defendant has and had bad faith intent to profit from the Game Room Guys mark.*

Defendant denies

(36) *On information and belief, Defendant does not have a trademark or other intellectual property rights.*

Defendant denies

(37) *On information and belief, Defendant does not have any prior use of the term "Game Room Guys" or Game Room Guys mark.*

Defendant agrees

(38) *On information and belief, Defendant has no bona fide noncommercial or fair use of the Game Room Guys mark*

Defendant agrees

(39) *On information and belief, Defendant intended to divert consumers from Plaintiff services and products that could harm the goodwill represented by the Game Room Guys mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Defendant's products.*

Defendant denies

(40) *On information and belief, Defendant has no reasonable grounds to believe that the use of the Game Room Guys mark in connection with the sale of the Defendant's products and services was a fair use or otherwise lawful.*

Defendant denies

(41) Defendant's acts alleged above have caused, and if not enjoined will continue to cause, irreparable and continuing harm to Plaintiff's trademarks, business, reputation, and goodwill. Plaintiff has no adequate remedy at law as monetary damages are inadequate to compensate Plaintiff for the injuries caused by the Defendant.

Defendant denies

(42) As a direct and proximate result of Defendant's conduct, Plaintiff has suffered damages to its business, its goodwill, its trade name recognition, the Game Room Guys mark, and other damages in an amount to be proved in trial.

Defendant denies

(43) Plaintiff is entitled to injunctive relief and to recover Defendant's profits, actual damages, enhanced profits and damages, costs, and reasonable attorney fees under 15 U.S.C 1125(a), 1116, and 1117.

Defendant denies

SUMMARY

1. DBEC, LLC is a national distributor/merchant of beverage and billiards equipment and supplies
2. DBEC, LLC is well within its rights to sell those items on Amazon.com
3. Amazon.com is a website in which many distributors and merchants have the capability of selling products, some identical to other distributors and merchants and some similar items, to give customers the opportunity to purchase items at the lowest cost possible.
4. DBEC, LLC has a direct relationship with numerous manufacturers and sells those items under the name DBEC, LLC and Soda Bar Systems.
5. On information and belief, Game Room Guys, is also a distributor and merchant of billiard equipment and supplies.
6. On information and belief, Game Room Guys is not the manufacturer of these products.
7. On information and belief, Game Room Guys, has made false designations of origin, or false or misleading representations of fact, which are likely to cause confusion. In the Amazon listings of Game Room Guys, they list themselves as the "manufacturer" of the products they are selling. By definition, this is false, misleading and fraudulent. Exhibit 1(a-c)
8. On information and belief, Game Room Guys is acting in bad faith with the intent to be the sole merchant/distributor of the same manufactured equipment and supplies DBEC, LLC and Soda Bar Systems is legally allowed to sell.
9. On information and belief, Amazon.com frowns upon merchants/distributors using their company name in the main description of the product being sold to allow other merchants/distributors selling the exact same product, or similar, the ability to price match or beat.

10. On information and belief, DBEC, LLC and Game Room Guys purchase some of the mutual products being sold from the same manufacturer or common distributor.
11. DBEC, LLC does indeed offer for sale the some of the same products Game Room Guys offers for sale. In no way, does DBEC,LLC imply that the product the customer is purchasing is coming from Game Room Guys. Under the product listing, it clearly states there is more than one seller of the product offered, and clearly states Soda Bar Systems or DBEC,LLC as the other seller.

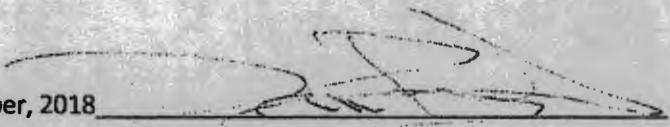
Exhibit 2

12. DBEC, LLC and Soda Bar Systems, do not use the term Game Room Guys in its packaging.
13. On information and belief, nowhere in the postings on Amazon. Com, do the letters "TM" appear, indicating Game Room Guys is a trademarked name. **Exhibit 3**
14. On information and belief, products purchased from Game Room Guys do not always include their packaging name or mark "Game Room Guys." **Exhibit 4**
15. DBEC, LLC and Soda Bar Systems, when listed under a product Game Room Guys is also selling, is selling either the exact same product or a product very similar in quality, which is allowable under Amazon.com policies. In no way can these items be construed as counterfeit items.

DBEC, LLC, Soda Bar Systems and Game Room Guys are all distributors and merchants of billiard equipment and supplies. Both are within their legal rights to sell these products on Amazon.com for the purpose of profit and good name.

For these reasons listed above, this lawsuit should be dismissed with prejudice, and no awards given.

Signed this 1st day of October, 2018



David W. Bates
Owner of DBEC, LLC and Soda Bar Systems

Keller & Almassian, PLC
Nicholas S Laue
230 E. Fulton Street
Grand Rapids, MI 49506



FedEx
Express

ORIGIN ID: MKEA (414) 255-4432
DB ENTERTAINMENT SODA BAR SYSTEM
DBEC LLC
3700 EAST ELM ROAD

OAK CREEK, WI 531546618
UNITED STATES US

SHIP DATE: 18 OCT 18
ACTWGT: 0.50 LB MAN
CAD: 0688155/CAFE3211

BILL SENDER

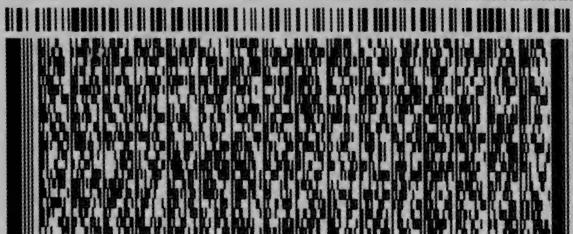
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DISTRICT COURT OF WESTERN MICHIGAN
410 WEST MICHIGAN AVENUE
ROOM 107
KALAMAZOO MI 49007

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